IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.460 OF 2005

Dennis R. Nunes ...Appellant

Vs.

Azam Khan Akbar Khan & Ors. ...Respondents

Mr.Suresh Gole for the Appellant

CORAM: A.S.OKA, J.
DATED: MAY 3,2005.

P.C.:

1. Heard Shri Gole for the Appellant and the learned Counsel appearing for the Respondent Nos.1 and 2. The Appeal is filed by the original Plaintiff taking exception to the Judgment and Order dated 1st March 2005 by which Notice of Motion taken out by the original Plaintiff has been dismissed.

2. It is not in dispute that on 28th April 2005, the learned Advocate appearing for the Respondent Nos.1 and 2 has handed over to the Advocate for the Appellant a cheque in the sum of Rs.1,25,000/- drawn in favour of the Appellant.

3. The Advocate appearing for Respondent Nos.1 and 2 states that without prejudice to the rights and contentions of the Respondent Nos.1 and 2 in the pending suit, the Respondent Nos.1 and 2 will pay a sum of Rs.1,00,000/- to the Appellant on or before 2nd November 2005 and further sum of

Rs.1,00,000/- to the Appellant on or before 2nd May 2006.

The statement is accepted.

4. In view of the payment of Rs.1,25,000/- and in view of statement of the learned Counsel for the Respondent Nos.1 & 2 which is recorded above, no interference is called for with the discretionary order passed by the Trial Court declining to grant interim relief in favour of the Appellant.

5. There is no merit in the Appeal from Order and the same is dismissed with no order as to costs.

6. All contentions of the parties in the pending suit are expressly kept open.

7. Parties to act upon an authenticated copy of this order.

Judge.